

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

STEPHEN E. BARNES, as a shareholder,
directors, and officer of an on behalf of
CELLINO & BARNES, P.C.,

Plaintiff,

v.

Case No. 1:19-cv-00729-EAW

CELLINO & CELLINO, LLP and
DOES 1 through 4, inclusive,

Defendants.

DECLARATION OF ANNA MARIE CELLINO

Anna Marie Cellino, under penalty of perjury and pursuant to 28 U.S.C. § 1746,
declares the following to be true and correct:

1. I have been a licensed attorney in New York for over 38 years. I submit
this declaration in opposition to Stephen E. Barnes's motion for a temporary restraining order
and preliminary injunction and in support of the defendant's motion to dismiss, or in the
alternative, to stay.

2. Before filing this case, Mr. Barnes never contacted me or my daughters to
express any objection to the use of the name Cellino & Cellino LLP. As discussed further
below, had he provided us with the courtesy of a phone call, this whole matter could have
probably been resolved without the need for judicial intervention.

A. The Formation of Cellino & Cellino LLP

3. I am a partner in the law firm formerly known as Cellino & Cellino LLP, the defendant in this action. Also practicing at the firm are my daughters, Jeanna Cellino and Annmarie Cellino.

4. I began my legal career in 1981. I practiced as an attorney with National Fuel Gas Distribution Corp. for nine years before joining their management team. While in management, I continued to provide legal guidance. I became President of National Fuel Gas Distribution Corp. in 2008 where I was advised of all legal matters dealing with the utility company. I retired in 2016, but quickly found that I desired to spend more time with my children, including the opportunity to work with them.

5. My daughter Jeanna Cellino has been practicing personal injury law for six years. She has quickly become a well-respected personal injury attorney in Buffalo. She is a member of the Million Dollar Advocates forum—a legal group whose membership is limited to attorneys who have won \$1 million dollars plus verdicts or settlements for clients—and has received recognition as a “Rising Star” for plaintiffs’ personal injury litigation by *Super Lawyers*. My daughter Annmarie Cellino has been a practicing attorney in Western New York since she was admitted to the bar in 2015.

6. For some time, my daughters and I have discussed forming a firm together. On or around April 24, 2019, we formed our own firm. When we decided to practice law together, we understood that we would be required to use our last name as part of our firm’s name. Under the New York Rules of Professional conduct, “[a] lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or

lawyers practicing under such name, or a firm name containing names other than those of one or more lawyers in the firm . . .” Rule 7.5(b). Accordingly, we had no choice but to use the name Cellino in our firm name.

7. Intending the firm to be a legacy for my daughters, and in an effort to comply with Rule 7.5(b), I decided upon the name of Cellino & Cellino LLP. This name accurately reflected the ownership of the firm—two female partners with the last name of Cellino.

8. My husband, Ross Cellino, is not an attorney with Cellino & Cellino LLP. All financing with respect to this firm came from my personal earnings at National Fuel.

B. Recent Changes

9. I believe that my daughters and I have a right to practice law using our last names. There is no likelihood of confusion between “Cellino & Cellino LLP”—a firm of all female attorneys practicing under their own names—and “Cellino and Barnes PC.” There was certainly no intent to cause confusion. Indeed, I do not want to be confused with Barnes or with my husband, Ross Cellino.

10. But I have no interest in litigating this frivolous issue with Mr. Barnes. The firm that I formed with my daughters exists to serve our clients. We do not wish to waste time on petty squabbles, nor do we wish to unnecessarily consume judicial resources.

11. My daughters and I have therefore decided to reconstitute our firm under the name of “The Law Offices of Anna Marie Cellino LLP.” I also have decided to change the

phone number and update our marketing materials, such as our billboards and radio ad campaign, to reflect these changes.

12. Attached as **Exhibit 1** is the formation document for the The Law Offices of Anna Marie Cellino LLP. This document was filed today.

13. Effective June 20, 2019, The Law Offices of Anna Marie Cellino LLP can be reached at (716) 259-2020 or (716) 333-2020. We will no longer market the phone number 888-2020.

14. I have also pulled our current radio campaign ads (**Exhibit 2**). They are no longer being aired as of the date of this declaration.

15. In addition, I changed our billboard design to reflect the new name, new phone number, and pictures of my daughters. Attached as **Exhibit 3** is a draft sample of the new billboard design that we are presently working on. Given the time and costs associated with designing, printing, and installing the billboards, I expect no less than a three-week turnaround on implementation.

16. Our website, CellinoLaw.com, is not yet active and is still under construction. When completed, it will prominently display my daughters' photos and the name "The Law Offices of Anna Marie Cellino."

17. Cellino & Cellino LLP is not the owner of the other site referenced in Mr. Barnes' papers—www.cellinoandcellino.com.

18. I agree not to use the name Cellino & Cellino LLP until Justice Chimes issues a dispositive decision on the Cellino & Barnes, P.C. dissolution proceeding, captioned *Ross M. Cellino, Jr. v. Cellino & Barnes, P.C. and Stephen E. Barnes*, Index No. 806178/2017. To be clear, I am not saying that I am going to change the name back to Cellino & Cellino LLP after a decision on the dissolution proceeding, but for the sake of putting this matter behind us, I wanted to offer my assurance that the name Cellino & Cellino LLP would not be used prior to the resolution of that proceeding.

Dated: June 21, 2019



Anna Marie Cellino